

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

8 RICARDO A. IRIVE,
9 Petitioner,
10 vs.
11 RENEE BAKER, *et al*
12 Respondents.

2:16-cv-00241-JCM-GWF

ORDER

15 This action is a petition for writ of habeas corpus by Nevada prisoner Ricardo A. Irive.
16 Irive initiated this case on February 5, 2016. On that date, Irive filed an application to proceed *in*
17 *forma pauperis*, along with his habeas petition (attached to application to proceed *in forma*
18 *pauperis*), and a motion for appointment of counsel (ECF No. 2). On March 1, 2016, the court
19 denied Irive's application to proceed *in forma pauperis* (ECF No. 3). On March 9, 2016, Irive paid
20 the filing fee (ECF No. 4).

21 The Court has reviewed Irive's petition, pursuant to Rule 4 of the Rules Governing Section
22 2254 Cases in the United States District Courts, and determines that it merits service upon
23 respondents and a response by respondents.

24 Irive has filed a motion for appointment of counsel (ECF No. 2). “Indigent state prisoners
25 applying for habeas corpus relief are not entitled to appointed counsel unless the circumstances of a
26 particular case indicate that appointed counsel is necessary to prevent due process violations.”

1 *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir.1986) (citing *Kreiling v. Field*, 431 F.2d 638, 640
2 (9th Cir.1970) (per curiam). The court may, however, appoint counsel at any stage of the
3 proceedings “if the interests of justice so require.” See 18 U.S.C. § 3006A; see also, Rule 8(c),
4 Rules Governing Section 2254 Cases; *Chaney*, 801 F.2d at 1196. The record in this case reflects that
5 appointment of counsel is not warranted.

6 **IT IS THEREFORE ORDERED** that petitioner's motion for appointment of counsel
7 (ECF No. 2) is **DENIED**.

8 **IT IS FURTHER ORDERED** that the Clerk of the Court shall separately file the petition
9 for writ of habeas corpus (attached to the application to proceed *in forma pauperis*, at ECF
10 No. 1).

11 **IT IS FURTHER ORDERED** that the Clerk of the Court shall add Adam Paul Laxalt,
12 Attorney General of the State of Nevada, as counsel for respondents.

13 **IT IS FURTHER ORDERED** that the Clerk of the Court shall electronically serve upon
14 respondents a copy of the petition for writ of habeas corpus and a copy of this order.

15 **IT IS FURTHER ORDERED** that respondents shall have **60 days** from the date of entry of
16 this order to appear in this action, and to answer or otherwise respond to the petition.

17 **IT IS FURTHER ORDERED** that if respondents file an answer, petitioner shall have 60
18 days from the date on which the answer is served on him to file and serve a reply. If respondents file
19 a motion to dismiss, petitioner shall have 60 days from the date on which the motion is served on
20 him to file and serve a response to the motion to dismiss, and respondents shall, thereafter, have 30
21 days to file a reply in support of the motion.

23 || Dated April 11, 2016.

Xenia C. Mahan
UNITED STATES DISTRICT JUDGE